

In *Cotterell v. Dutton*, 4 Taunt. 826, a tenant in tail died leaving issue in tail a grand-daughter, a *feme covert*; the grand-daughter died *covert* leaving issue in tail two sons, infants; the elder attained the age of twenty-one years and died, the younger brother attained his age of twenty-one years, and fourteen years after issued a writ of *formedon* in the *descender*, but he was held bound by the Statute. Mr. Sergeant Lens, in argument, observed that *Doe v. Jesson* was decided contrary to the apprehension of the profession at the time, and he put the case, that if the first person to whom an estate tail descends be a *feme covert*, and dies, and leaves her own heir an infant or a daughter under coverture, though such a person could not be guilty of *laches* in law, the Statute, on that construction, would run against her. But *Mansfield C. J. and Heath J. agreed that in the case put the infant heir of a *feme covert* would have ten years from the *cesser* of the disability, not the death of her mother.⁵³ The Court all thought, however, that when once the Statute began to run, it continued notwithstanding any subsequent disability, and that the Statute having commenced against the elder brother, tenant in tail, it continued to run against the younger.

By the Act of 1818, ch. 216,⁵⁴ it was provided that the exceptions or savings in favour of persons beyond seas, contained in the Act entitled, An Act for limitation of certain actions for avoiding suits at law (1715, ch. 23), and in the Act entitled, An additional and supplementary Act to the several Acts for the administration of justice in testamentary affairs (1729, ch. 24), and also in the Act entitled An Act to prevent rigorous prosecutions on Sheriffs', testamentary, administration and deputy Commissaries' bonds (1729, ch. 25), be and the same are hereby repealed.

The first section of the Act of 1715, ch. 23, applies to the actions enumerated in the third section of the Statute of James, and indeed is in terms substantially the same, except that the period of limitation is reduced from six to three years. The second section saves the rights of infants, *femes covert*, insane persons, and persons imprisoned and beyond seas, and is very nearly the same as the seventh section of the Statute of James. The sixth section applied to bills, bonds, judgments, recognizances, &c., and saved to persons beyond seas, amongst others, the benefit thereof for the space of five years after the impediment removed. The twenty-second section of the Act of 1729, ch. 24, provided a like saving of six years in actions on testamentary or administration bonds, and the fourth section of the Act of 1729, ch. 25, a saving of five years in actions on Sheriffs' bonds. In *Krenkel v. Hoppe* and *Hammer*, cited in *Frey v. Kirk*, 4 G. & J. 509, the Court of Appeals affirmed the constitutionality of

⁵³ *Cotterell v. Dutton supra* was disapproved in *Carter v. Woolfork*, 71 Md. 292, but evidently only on the construction of the Statute with regard to the case put by Sergeant Lenz, as the decision does not seem to be in conflict with the Maryland case.

⁵⁴ The disability of coverture was eliminated by the Act of 1890, ch. 548, and that of imprisonment by the Act of 1894, ch. 661, (Code 1911, Art. 57, sec. 2), as to the actions enumerated in the preceding section. See also sec. 6; and note 55 *infra*.